

# MORE THOUGHTS ON DIVORCE AND REMARRIAGE

By Ashby L. Camp

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## I. Some key texts

A. Mat. 5:31-32 – <sup>31</sup>And it was said, "Whoever divorces his wife, let him give her a certificate of divorce." <sup>32</sup>But I say to you that anyone who divorces his wife, except on the ground of sexual immorality, causes her to commit adultery, and whoever marries a divorced woman commits adultery.

B. Mat. 19:9 - *But I say to you that whoever divorces his wife, except for sexual immorality, and marries another commits adultery.*

C. Mk. 10:10-12 – <sup>10</sup>And in the house the disciples again were asking him about this. <sup>11</sup>And he said to them: "Whoever divorces his wife and marries another commits adultery against her; <sup>12</sup>and if she marries another after divorcing her husband, she commits adultery."

D. Lk. 16:18 - *Anyone who divorces his wife and marries another commits adultery, and the man who marries a woman who has been divorced from her husband commits adultery.*

E. 1 Cor. 7:10-11 - <sup>10</sup>Now to the married, I command (not I, but the Lord) the wife not to separate from her husband – <sup>11</sup>but if she does indeed separate, let her remain unmarried or be reconciled to the husband – and the husband not to divorce his wife.

F. 1 Cor. 7:12-16 – <sup>12</sup>Now to the rest, I say (not the Lord) if any brother has an unbelieving wife, and she consents to live with him, let him not divorce her; <sup>13</sup>and if any woman has an unbelieving husband, and he consents to live with her, let her not divorce the husband. <sup>14</sup>For the unbelieving husband has been sanctified in the wife, and the unbelieving wife has been sanctified in the brother. Otherwise, your children are unclean, but now they are holy. <sup>15</sup>But if the unbeliever separates, let him or her separate. The brother or the sister has not been made a slave in such circumstances. But God has called you in peace; <sup>16</sup>for how do you know, wife, whether you will save your husband? or how do you know, husband, whether you will save your wife?

G. 1 Cor. 7:25-28 - <sup>25</sup>Now about the virgins, I do not have a commandment of the Lord, but I give a judgment as one having been given mercy by the Lord to be faithful. <sup>26</sup>Therefore, I consider this to be good because of the present distress, [namely] that what is so is good for a man. <sup>27</sup>Are you bound to a woman? Do not seek release. Are you free from a woman? Do not seek a wife. <sup>28</sup>But if indeed you marry, you have not sinned; and if the virgin marries, she has not sinned. But such people will have affliction in the flesh, and I am trying to spare you.

## II. On what grounds is it permissible for a Christian to divorce his/her spouse?

### A. The meaning of *porneia* in the exception clause

The first issue is the meaning of *porneia* in the exception clauses of Mat. 5:32 and 19:9. Specifically, is it restricted to sexual intercourse with one other than one's spouse (adultery proper) or does it encompass other sexual sins? I am convinced the latter is correct. As D. A. Carson states in "Matthew" in *The Expositor's Bible Commentary* (Grand Rapids: Zondervan, 1984) 8:414:

[I]t must be admitted that the word *porneia* itself is very broad. In unambiguous contexts it can on occasion refer to a specific kind of sexual sin. Yet even then this is possible only because the specific sexual sin belongs to the larger category of sexual immorality. *Porneia* covers the entire range of such sins (cf. TDNT, 6:579-95; BAGD, s.v.; Joseph Jensen, "Does *porneia* Mean Fornication? A Critique of Bruce Malina," *NovTest* 20 [1978]: 161-184) and should not be restricted unless the context requires it.

Robert Stein states in "Divorce" in Joel B. Green, Scot McKnight, and I. Howard Marshall, eds., *Dictionary of Jesus and the Gospels* (Downers Grove, IL: InterVarsity Press, 1992) 195:

It has been pointed out that *porneia* cannot be equated with "adultery" because there is a separate Greek word for adultery – *moicheia* – and because in Mark 7:21-22 / Matthew 15:19; 1 Corinthians 6:9 and Hebrews 13:4 *porneia* is distinguished from *moicheia*. But while there is a distinction between the two words, it is one of specificity. *Moicheia* is a specific term and means adultery; *porneia* is a much more inclusive term and means any unlawful sexual act. These terms are not synonyms, but *porneia* includes *moicheia*. In other words, "adultery" is a subspecies of "unchastity" which, unless qualified, refers to sexual immorality generally.

Craig Keener states in . . . *And Marries Another: Divorce and Remarriage in the Teaching of the New Testament* (Peabody, MA: Hendrickson, 1991) 31-32:

My suspicion is that Matthew used a broader term because he did indeed mean more than what is narrowly signified by "adultery." Most sexual infidelity committed by a married person can come under the heading "adultery," but Matthew probably wishes his exception to permit more than the word itself specifies. . . . Matthew's point seems to be that sexual sin within marriage need not be limited to a wife's having intercourse with another man . . .

Granting that *porneia* in the divorce texts alludes to the phrase "indecent matter" in Deut. 24:1 and granting that this was understood by both Hillelites and Shammaites as

a reference to adultery, both of those schools included a range of immodesty within the scope of that offense. See Keener (1991) 32; David Instone-Brewer, *Divorce and Remarriage in the Bible: The Social and Literary Context* (Grand Rapids: Eerdmans, 2002) 277-278. So it seems that *porneia* in the Matthew texts is best understood "as any sort of sexual infidelity against the marriage." Craig S. Keener, "Remarriage for Circumstances Beyond Adultery or Desertion" in Paul E. Engle and Mark L. Strauss, eds., *Remarriage After Divorce in Today's Church: 3 Views* (Grand Rapids: Zondervan, 2006) 107.

## **B. Whether Jesus intended the exception for sexual immorality to be the exclusive grounds for which a divorce is permissible**

### **1. The claim that the exception represents a broader principle**

One argument that the stated exception was not intended to be exclusive is that the exception represents a *principle* that divorce is permissible for egregious violations of the marriage covenant *as exemplified by* sexual immorality. In other words, the claim is that one can extrapolate from the express exception for sexual immorality to exceptions for comparable assaults on the marriage covenant (e.g., physical abuse or abandonment). This is the position argued by Craig Keener in Keener (2006) 111-115; Craig Blomberg in "Marriage, Divorce, Remarriage, and Celibacy: An Exegesis of Matthew 19:3-12," *Trinity Journal* 11:2 (Fall 1990) 188-194; and David J. Atkinson in "Divorce" in Walter A. Elwell, ed., *Evangelical Dictionary of Theology*, 2<sup>nd</sup> ed. (Grand Rapids: Baker, 2001) 348.

The general concept is a familiar one. We understand, for example, that the Bible's specific condemnation of drunkenness expresses a principle by which we condemn modern forms of nonalcoholic intoxication. The question is whether it is appropriate to apply that concept to the exception in the Lord's teaching about divorce. Doing so admittedly increases the uncertainty in applying the teaching because one must determine what assaults on the marriage covenant are comparable to that of sexual immorality, but I am not sure that is a sufficient basis for rejecting the view.

My resistance to it stems mainly from the fact an exception clause serves to identify matters exempted from a general statement, so it seems more natural to read it specifically unless there is some contextual indicator to the contrary. For example, in exempting close relatives from a priest's duty not to make himself ceremonially unclean for people who die, Lev. 21:2-3 says "except for a close relative, such as his mother or father, his son or daughter, his brother, or an unmarried sister who is dependent on him." If the text simply stated "except for his mother or father" would one be reading it correctly to assume it represented a principle by which all close relatives were exempted?

### **2. The claim that Jesus' teaching addressed only the grounds for divorce provided in Deut. 24:1**

Another argument against the exclusiveness of Jesus' exception for sexual immorality is made by David Instone-Brewer in his book *Divorce and Remarriage in the Bible: The Social and Literary Context* (Grand Rapids: Eerdmans, 2002). His doctoral studies at Cambridge focused on Jewish exegesis before A.D. 70, and he spent years as a Research Fellow at Tyndale House studying the social and literary context of the biblical passages relating to divorce and remarriage. I say that simply to make the point that his work cannot be taken lightly.

Instone-Brewer has shown there was a rabbinic consensus in the first century, based on Gen. 1:28, Ex. 21:10-11, and Deut. 24:1, that divorce was valid for infertility, material neglect (denial of food or clothing), emotional neglect (denial of conjugal rights and probably also cruelty and humiliation), and sexual unfaithfulness.<sup>1</sup> The controversy among the rabbis centered on an interpretation of Deut. 24:1 by which the Hillelites allowed divorce for "any matter."

Whereas the Hillelites argued from Deut. 24:1 that divorce could be on the grounds of "any matter" *or* "indecency," the latter being subsumed by the former, the Shammaites argued that Deut. 24:1 permitted divorce only for "a matter *of* indecency," which they took to mean adultery. The question posed to Jesus by the Pharisees in Mat. 19:3 / Mk. 10:2 was whether he agreed with the Hillelites' interpretation. In answering that divorce was not permissible, except for sexual immorality, Jesus indicated that the Shammaites' understanding of Deut. 24:1 was correct.

If Jesus' teaching about divorce addressed only the grounds provided in Deut. 24:1, Instone-Brewer argues it would be a mistake to interpret that teaching as a rejection of the other Old Testament grounds for divorce that were universally accepted within Judaism.<sup>2</sup> As a parallel, the Shammaites' position on divorce was summarized in the rabbinic literature in wording similar to that used by Jesus,<sup>3</sup> and yet the Shammaites undisputedly recognized as valid the additional grounds for divorce in Ex. 21:10-11. Instone-Brewer remarks (p. 186):

Jesus used the same terminology as the Shammaites, in the same context, at the same period of time, and in a debate where Shammaites or their rivals the Hillelites were present. We may therefore confidently assume that he meant to convey the same meaning by these words that the

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<sup>1</sup> Instone-Brewer believes divorce for infertility is excluded by Jesus' teaching in Mat. 19:10-12 that marriage is not compulsory. This shows that Jesus did not consider the commandment to "multiply" as one that every man had to fulfill, and thus an inability to multiply because of a wife's infertility could not justify divorce.

<sup>2</sup> For example, the argument that the exception clause authorizes remarriage after a divorce for sexual immorality often is bolstered by an appeal to the fact that valid divorces in first-century Judaism included a right to remarry. The claim is that Jesus' hearers would assume that a right to remarry accompanied any divorce he permitted unless he said otherwise.

<sup>3</sup> "A man should not divorce his wife except he has found in her indecency." (*Sifre Deut.* 269; *y. Sota* 1.2 [16b]) "A man should not divorce his wife except he has found in her a matter of indecency." (*m. Git.* 9.10)

Shammaites were trying to convey. When the Shammaites said "except . . . for a matter of indecency" in the context of this debate about "any matter" divorces, they meant that Deuteronomy 24:1 allows no type of divorce except that for indecency. They did not mean that Scripture allows no divorce except that for indecency because they allowed other divorces on the grounds in Exodus 21.

My reservation about this view is that it is difficult to read it out of Lk. 16:18 (and Mat. 5:32, but less so). Whereas Jesus' statements in Mark 10 and Matthew 19 are readily understood in relation to the rabbinic debate over the grounds for divorce in Deut. 24:1, and that context conceivably could be read into Mat. 5:32 from Matthew 19, Lk. 16:18 stands alone. I can understand how Luke could expect that a Gentile reader would assume an exception for sexual immorality in Lk. 16:18 because both Roman and Jewish law compelled the husband to divorce his wife if she were found to be in adultery,<sup>4</sup> and it was assumed in the Roman world that general rules or laws contained implicit exceptions.<sup>5</sup> But it is difficult to understand how Luke could expect a Gentile reader to know that Jesus' statement was addressing only the grounds for divorce in Deut. 24:1 and thus did not exclude grounds for divorce derived by rabbis from other texts.

Instone-Brewer does not view this problem as insurmountable. He writes (2002) 161:

The more serious problem with these shorter versions [Mat. 5:31-32; Lk. 16:18] is the misunderstanding that they can produce in a reader. When Jesus' conclusion is removed from the context of the debate, it is impossible for a reader to understand the meaning. However, if we assume the Early Church allowed divorce for adultery, and possibly for other Old Testament grounds (as argued in the next chapter), all readers of Luke's Gospel would be aware of divorces occurring. They would therefore realize that this highly abbreviated saying had further complexities behind it.

### **III. May a Christian remarry after permissibly divorcing his/her spouse?**

It is pretty much taken for granted in churches of Christ that the answer is "yes," and I think rightly so. This is the view most widely held among evangelicals. As Keener explains (2006) 51:

The exception clause is appended to divorce rather than to remarriage because it is the *validity* of the divorce that establishes the basis for acceptable remarriage. If the text allows a divorce as valid, it also allows

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<sup>4</sup> Keener (1991) 31.

<sup>5</sup> Keener (1991) 27.

a remarriage to be valid. A remarriage is "adulterous" by definition if – and only if – the divorce was invalid . . .

In addition, it is recognized even by proponents of the no-remarriage view that a right to remarry generally was understood to accompany a valid divorce. For example, Gordon J. Wenham in writes in "No Remarriage After Divorce" in Paul E. Engle and Mark L. Strauss, eds., *Remarriage After Divorce in Today's Church: 3 Views* (Grand Rapids: Zondervan, 2006) 33: "Now no one would dispute that Jews, Greeks, and Romans in the first century assumed that a divorce entitled one to remarry. It is plain, too, that the Old Testament tolerates divorce with the right to remarry, though it also quite clearly does not like it." Given that a valid divorce in the first century included a right to remarry, that right would be assumed unless it was denied. Since Jesus did not deny it, the implication is that he did not intend to prohibit remarriage.

It is true that early Christian writers (the "Church Fathers") overwhelmingly rejected remarriage after divorce, but as Keener notes (2006) 50, "this is one of the cases where an appeal to them is vulnerable." It seems likely that they distorted Jesus' teaching because of their increasing distance from its Jewish context and the rising tide of sexual asceticism. See Keener (2006) 50-51; Instone-Brewer (2002) 238-267; William A. Heth, "A Response to Gordon J. Wenham" in Paul E. Engle and Mark L. Strauss, eds., *Remarriage After Divorce in Today's Church: 3 Views* (Grand Rapids: Zondervan, 2006) 44-45. As Keener notes (2006) 50-51, "When the Reformers revisited the biblical texts in question, respectful of but no longer dependent on intervening centuries of tradition, most concluded in favor of remarriage in the case of divorce for adultery."

#### **IV. May a Christian who is divorced by his/her spouse remarry?**

##### **A. Where the divorcing spouse is a Christian**

###### **1. Where the divorce was permissible**

This is the situation where a Christian spouse is divorced because he/she was sexually immoral during the marriage. It is widely believed that this person is barred from remarriage, but the basis for that prohibition is less obvious than one might think. Indeed, if a remarriage is adulterous only where the divorce was ineffective because it was based on impermissible grounds, remarriage after a divorce for sexual immorality is not adulterous because sexual immorality is a permissible ground for divorce. For this reason, a number of scholars are convinced that both parties in this situation may remarry. See, e.g., Robert L. Saucy, "The Husband of One Wife," *Bibliotheca Sacra* 131 (July 1974) 234-235; John Jefferson Davis, *Evangelical Ethics: Issues Facing the Church Today* (Philipsburg, NJ: Presbyterian and Reformed Publishing, 1985) 103; Jack Cottrell, *Tough Questions – Biblical Answers* (Joplin, MO: College Press, 1985) 47-48; Instone-Brewer (2002) 286-287.

John Murray takes something of a middle position. He writes in *Divorce* (Grand Rapids: Baker, 1972 [reprint]) 102:

In the case of the innocent party to divorce the exceptive clause in Matthew 19:9 gives us warrant to declare his or her remarriage to be legitimate. But we do not have such warrant in the case of the guilty party. Hence the situation in which we are placed is that, while, on the one hand, we may not declare the remarriage of the guilty party to be illegitimate and adulterous yet, on the other hand, we may not declare it to be legitimate. That appears to be the position in which the relevant evidence leaves us. This does not mean that the second marriage is neither right nor wrong. It simply means that we are not in a position to declare dogmatically one way or the other.

Of course, if Mat. 5:32b or Lk. 16:18b refers to women divorced for *any* reason, rather than to women divorced for an *impermissible* reason (the subject of Mat. 5:32a and Lk. 16:18a), then one divorced for sexual immorality is barred from remarriage. It is not certain, however, that Mat. 5:32b or Lk. 16:18b refers to women divorced for any reason. The reader may be expected to understand that "a divorced woman" refers to the group just mentioned – those divorced for a reason other than sexual immorality. See, e.g., Murray (1972) 26, 99-100.

The view that a person who was divorced for sexual immorality can remarry admittedly seems strange in light of the fact that one who divorces one's spouse for a reason other than sexual immorality commits adultery upon remarriage and thus is barred from remarriage. If wrongfully divorcing one's spouse bars one from remarriage then why does wrongfully causing a divorce by engaging in sexual immorality also not bar one from remarriage? They appear to be equally culpable destructions of a marriage.

But whether those situations are parallel in a relevant way depends on *why* wrongfully divorcing one's spouse bars one from remarriage. If the reason is that a divorce on impermissible grounds is ineffective, remarriage is prohibited in that case because one is in some sense still bound to one's spouse, which makes remarriage "adulterous." But that rationale for prohibiting remarriage does not exist where the divorce was permissible and thus effective, as in the case where a spouse is sexually immoral.

Another possible basis for inferring that a spouse who was divorced for sexual immorality cannot remarry is the view that a Christian who is *wrongly* divorced by his/her spouse is barred from remarriage. The thinking is that if an innocent Christian who is divorced cannot remarry then certainly a guilty one cannot remarry. This raises the same issues noted in the preceding paragraph. In addition, it is not certain that an innocent Christian who is divorced is barred from remarriage (see below).

Andrew Cornes attempts to prohibit remarriage by an adulterer on the basis that an adulterer is obligated to repent and seek reconciliation (citing, for example, Jer. 3:12-14). Andrew Cornes, *Divorce & Remarriage: Biblical Principles and Pastoral Practice* (Grand Rapids: Eerdmans, 1993) 207, 303-304. That is true, but it is not clear to me how

the adulterer's sinful refusal to repent and seek reconciliation translates into a ban on remarriage. A divorce for impenitent adultery is still a divorce for adultery, and if a divorce for adultery is effective, it seems remarriage cannot be prohibited on the basis that the first marriage is still intact. Of course, if the adulterer remains impenitent he/she will be lost, but that is a different question.<sup>6</sup>

Many complain that allowing one who has been divorced for sexual immorality to remarry is open to grave abuse. As Blomberg exclaims, "this would make adultery the way to get out of an unwanted marriage legitimately!" Blomberg (1990) 186. It seems to me, however, that if a spouse is willing to defy God by engaging in adultery to provide grounds for a valid divorce, he/she would not be reluctant to defy God by wrongly divorcing and remarrying.<sup>7</sup> So perhaps that fear has been overstated. If, however, the potential for abuse is as great as many believe, that may be a clue that Mat. 5:32b and Lk. 16b should be read as referring to women divorced for any reason.<sup>8</sup>

## 2. Where the divorce was impermissible

This is the situation where a Christian spouse is divorced for a biblically unacceptable reason, as where the divorcing spouse is unhappy or feels unfulfilled or no longer finds his/her spouse attractive. The belief that an innocent spouse who is the victim of his/her spouse's betrayal is barred from remarriage is based on Mat. 5:32 and Lk. 16:18b. The usual understanding of those verses is that a woman who was impermissibly divorced commits adultery upon remarriage and that the man who marries her also commits adultery because the divorce was ineffective in freeing her to remarry. See, e.g., W. F. Albright and C. S. Mann, *Matthew*, Anchor Bible (Garden City, NY: Doubleday, 1971) 65; Murray (1972) 24-26, 98-99; Jack P. Lewis, *The Gospel According to Matthew Part I*, Living Word Commentary (Austin, TX: Sweet Publishing, 1976) 92-93; I. Howard Marshall, *The Gospel of Luke*, New International Greek Testament Commentary (Grand Rapids: Eerdmans, 1978) 632; William A. Heth and Gordon J. Wenham, *Jesus and Divorce* (Nashville: Thomas Nelson, 1984) 47-48; Robert H. Mounce, *Matthew*, Good News Commentary (San Francisco: Harper & Row, 1985) 44-45; W. D. Davies and Dale C. Allison, *The Gospel According to Saint Matthew*, International Critical Commentary (Edinburgh: T. & T. Clark, 1988) 532; John S. Feinberg and Paul D. Feinberg, *Ethics for a Brave New World* (Wheaton, IL: Crossway, 1993) 321, 333; Cornes (1993) 196-197, 206-207; Richard B. Hays, *The Moral Vision of*

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<sup>6</sup> If Mat. 5:32b or Lk. 16:18b refers to women divorced for *any* reason rather than to women divorced for an *impermissible* reason then a spouse who is divorced for adultery cannot remarry whereas the spouse who divorced him/her for adultery can remarry. This creates a situation in which remarriage is "adulterous" in the case of the divorced spouse but not "adulterous" in the case of the divorcing spouse. In that case, "adulterous" must be understood in a sense that does not require an intact marriage.

<sup>7</sup> Some would answer that without the adultery ploy the remarriage would be adulterous and thus would have to be broken up as a condition of repentance (and thus as a condition for acceptance by God), whereas with the adultery ploy the remarriage could continue. Since I am not convinced that marriages entered into sinfully must be broken up as a condition of repentance, that answer does not satisfy me.

<sup>8</sup> If John Nolland's understanding of Mat. 5:32b and Lk. 16:18b is correct (see next section), this option is not available.



*the New Testament* (San Francisco: HarperCollins, 1996) 356-357; Instone-Brewer (2002) 125-132, 147-159, 182-183.<sup>9</sup>

The harshness of this result has not gone unnoticed. As John Nolland states in *The Gospel of Matthew*, New International Greek Testament Commentary (Grand Rapids: Eerdmans, 2005) 246, "The normal understanding of Mt. 5:32b runs the danger of leaving the woman involved a double victim: she has been divorced by a husband who may well have rejected her at his own whim (as per v. 31) and is now to be barred from any new relationship because she bears the stigma of the 'divorcee.'"<sup>10</sup>

Nolland, a highly respected New Testament scholar who has written major commentaries on the Greek text of both Matthew (NIGTC) and Luke (WBC), relieves this pressure through two steps. First, he translates the phrase *poiei autēn moicheuthenai* in Mat. 5:32, which normally is translated "causes her to commit adultery," as "causes her to have adultery committed against her." In other words, by divorcing his wife on invalid grounds and (presumably) remarrying, the husband commits adultery against her. This is in line with the other accounts of Jesus' teaching on the subject (Mat. 19:9; Mk. 10:11; Lk. 16:18). Though the verb "to commit adultery" normally is used in the passive of a woman committing adultery, Nolland proposes that it might also be used to express the novel idea of a woman being the victim of adultery through the action of her husband. The notion of a husband being guilty of adultery against his own wife was novel in the first-century world, "and neither the Hebrew nor Greek language was receptive to its expression."<sup>11</sup> Nolland (2005) 244.

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<sup>9</sup> But see Instone-Brewer (2002) 197-204, 281-282 where he argues that the betrayed spouse is free to remarry. As noted below, it is unclear to me how these two claims fit together.

<sup>10</sup> Others wonder if this simply is part of discipleship, a hardship we are called to bear as a witness to God's ideal for marriage. For example, Robert Stein writes regarding Lk. 16:18b in *Luke*, New American Commentary (Nashville: Broadman Press, 1992) 420:

**The man who marries a divorced woman.** This is a most difficult statement because it penalizes the woman divorced by her husband. In other words, it seems to penalize the "innocent" party.

Through the centuries the church has struggled with the meaning of Jesus' sayings on divorce. The proper framework for understanding them may be that we take seriously such teachings on discipleship as [Lk.] 9:57-62; 13:24; 14:25-35. If we approach the divorce sayings believing in a "cheap grace," they will seem unusually harsh and out of step with the "modern day." But we must remember that the world's thinking on such matters is an abomination to God (16:15) and that such teaching as found in 16:18 is addressed to those who seek first the kingdom of God, who build their attitude toward marriage around their faith commitment and not their faith commitment around their attitude toward marriage. Clearly Jesus' statement indicates that God hates divorce (Mal. 2:16).

<sup>11</sup> The footnote accompanying this text states: Mt. 19:9 and Lk. 16:18 solve this problem by asserting the adultery of the man in a context where only the divorced wife is available to be the wronged party; Mk. 10:11 probably uses *ep' autēn* for 'against her', but this is not normal Greek.

Nolland explains the absence in Mat. 5:32 of any mention of the husband's subsequent marriage as a consequence of the wording of v. 31:

the remarriage is assumed, but the focus is on the divorce; the structural correspondence would have been disturbed by a specific mention of remarriage. What is being asserted, then, is that, in divorcing, the man is not creating a clean slate with freedom to remarry; on the contrary, his establishment of a new relationship will be an act of adultery against his spurned wife. *Id.*

Second, Nolland translates the passive verb *apolelumenēn* in Mat. 5:32b and Lk. 16:18b as "has gained a divorce" rather than "has been divorced." He writes (2005) 246-247:

I have argued elsewhere that *apolelumenēn* here [Mat. 5:32] and in Lk. 16:18 carries the sense of 'a woman who has gained a divorce' rather than the normal passive force 'a woman who has been divorced', and has in mind the situation of a woman who has manipulated her situation so as to gain a divorce.<sup>12</sup> It is not possible to be certain of this, but it makes the most coherent account of the origins of our present Gospel forms as well as for a good match between the two assertions of Mt. 5:32. It is notable that in Philo's reporting of the contents of Dt. 24:1-4 the prohibition of return to the first husband is explained in terms of the wife having parted from her husband (*Spec. leg.* 3.30-31). Philo understands Dt. 24:1 in terms of the wife's having engineered a divorce by her provocation of her husband. He goes on to berate the man who is prepared to marry a woman who has abandoned her earlier marriage in this way.

It is, therefore, likely that the intention of the present Gospel text is to challenge easy divorce, whether initiated by the husband or provoked by the wife, in each case by labeling the subsequently formed relationship as adulterous. In each instance the challenge is addressed to the man: whether he be the one contemplating divorce or the one planning to collude with the stratagems of a woman who has found her way out of a marriage in pursuit of something better. Marriage is not a contract to be cancelled when no longer convenient but rather, as testified to in Mal. 2:14-16, a covenant relationship that calls for sustained faithfulness.

So, in Nolland's view, neither Mat. 5:32 nor Lk. 16:18 addresses the freedom to remarry of an innocent wife who was invalidly divorced. Jesus says only that a man who wrongly divorces his wife commits adultery against her by remarriage and that a man

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<sup>12</sup> The footnote accompanying this text states: See Nolland, 'Gospel Prohibition', 30-32. The use of *apo andros* (lit. 'from a man') rather than *hup' andros* (lit. 'by a man') in Lk. 16:18, while hardly decisive, is suggestive. *Apoluein* is not a very common word for 'to divorce', so it is difficult to check whether the use of the passive with the woman is likely to operate in a manner analogous to the other verbs (like *moicheueiv*), which, reflecting the priority given to the male in the culture, can use the active of the man undertaking the activity and the passive of the woman undertaking the activity.

who marries a woman who engineered an invalid divorce likewise commits adultery (as would, of course, the woman he married). The woman who engineered an invalid divorce from her husband and remarried would be the Jewish equivalent of a Gentile who invalidly divorced her husband and remarried (Mk. 10:12), as a Jewish woman had no legal right to divorce her husband. See, e.g., Instone-Brewer (2002) 85-90.

Assuming Nolland is correct and Jesus did not address whether an innocent wife who was wrongly divorced is able to remarry, can one assume that Jesus accepted the consensus of first-century Judaism that remarriage after any invalid divorce was adulterous regardless of the innocence of the divorced spouse (as documented at Instone-Brewer [2002] 125-132)? In other words, if one can assume from the social and religious context that one who divorced his wife for sexual immorality had a right to remarry can one assume from that same context that a wife who was divorced on invalid grounds did not have a right to remarry regardless of her innocence?

The fact Jesus increased the rights of married women by invalidating "any matter" divorces and making a husband's wrongful divorce and remarriage an act of adultery against his own wife casts doubt upon the latter assumption. Jesus' willingness to expand the rights of married women seems sufficient to dispel any presumption that he would not do likewise regarding the right to remarry of wives who were dismissed at their husbands' whim. Without that presumption, I do not see how one can get from the fact Jesus did not address whether an innocent wife who was wrongly divorced is able to remarry to the conclusion that he embraced the Jewish status quo on the matter.

Nolland's proposal seems plausible and may be correct. It is weakened, however, by its grammatical uncertainties. Its novelty also is a strike against it. If this is the correct interpretation, one would expect to see some evidence of it in church history. It is possible that this understanding was lost early and did not survive in any existing documents, but its absence does not inspire confidence.

On the other hand, Nolland's view has the distinct advantage of eliminating the seeming inconsistency of allowing a Christian to remarry when divorced by an unbeliever (1 Cor. 7:15, see below) but not allowing him/her to remarry when divorced by an impenitent believer. Once the believer shows himself/herself to be implacably opposed to the will of God by divorcing his/her innocent spouse, any attempt to distinguish the remarriage rights in the two cases on the basis that the divorcing believer may be more sensitive to God's will than the divorcing unbeliever (which supposedly increases the chance for reconciliation so that the divorced spouse must remain available for remarriage to the divorcing believer) is hollow. Under Nolland's interpretation, an innocent spouse who was invalidly divorced by his/her Christian spouse is free to remarry, so one need not strain to distinguish the two cases.

Jay Adams argues in *Marriage, Divorce & Remarriage in the Bible* (Phillipsburg, NJ: Presbyterian and Reformed Publishing, 1980) 57-59 that a Christian who deserts his/her Christian spouse and refuses to return should be disfellowshipped and regarded as an unbeliever. Because he/she is regarded as an unbeliever, his/her leaving comes within

the right of remarriage suggested by Paul in 1 Cor. 7:15. This position was adopted by John Jefferson Davis in *Evangelical Ethics: Issues Facing the Church Today* (Philipsburg, NJ: Presbyterian and Reformed Publishing, 1985) 104.

My difficulty with this proposal is that it seems to swallow the teaching of Mat. 5:32 and Lk. 16:18b, at least as they are commonly understood.<sup>13</sup> If Christians who divorce invalidly are deemed unbelievers (via disfellowship or otherwise) and are therefore beyond the scope of Mat. 5:32 and Lk. 16:18b, to whom does the teaching in those texts apply? It would not apply to marriages between believers and unbelievers (1 Cor. 7:12) and would not apply to marriages between believers because the invalid divorce would render the sinning believer an unbeliever.

Instone-Brewer (2002) 197-204, 281-282, though critical of Adams's methodology, comes to the same conclusion. He claims that Paul in 1 Cor. 7:10-11 commands a Christian who has left his/her spouse to remain unmarried and to seek reconciliation and assumes that his command to restore the marriage will be obeyed because it is a word of the Lord (v. 10). In other words, Paul does not even contemplate a situation in which a believer who has separated refuses to reconcile. Instone-Brewer writes (p. 282):

If believers are deserted by believing partners, Paul commands the deserters to return. There appears to be no doubt that the believers will obey this command. Paul says that it is not his own command, but that of Jesus (v. 10; "not I, but the Lord"). **If believers did refuse** to obey this command, and thereby refuse to obey the direct command of Jesus, the Church would presumably be forced to excommunicate them.

Therefore verse 15 applies not only to desertion by a nonbeliever, but to any desertion that cannot be reversed. Paul assumes that this will occur only if the deserter is a nonbeliever, but in a secular-minded church, even a so-called believer disobeys the direct command of Christ.<sup>14</sup>

Several things cause me to doubt this view. First, though it is possible 1 Cor. 7:10 means one must remain single in order to reconcile, these actions are stated as alternatives. That is, Paul commands the believing wife who separates from her husband to remain single *or* to be reconciled with her husband. Second, the notion that Paul would not contemplate disobedience is undercut by the fact he recognizes the possibility of disobedience in v. 11a ("but if she does"). Third, the view suffers from the same weakness as Adams's view. If Christians who divorce invalidly are thereby rendered

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<sup>13</sup> This is not an issue under Nolland's interpretation. Of course, if Nolland's interpretation is correct then one need not bring the divorcing husband under 1 Cor. 7:15 to justify the divorced spouse's right to remarry.

<sup>14</sup> It is unclear to me how this fits with his view that a woman who was impermissibly divorced commits adultery upon remarriage and that the man who marries her also commits adultery because the divorce was ineffective in freeing her to remarry. See Instone-Brewer (2002) 125-132, 147-159, 182-183.

unbelievers, Jesus' teaching in Mat. 5:32 and Lk. 16:18b, as commonly understood, has no practical applicability.

Some believe 1 Cor. 7:27-28 allows those having been freed (*lelusai* – perfect passive) from a wife to remarry and thus provides divine approval for remarriage after a divorce. E.g., Keener (1991) 63; Instone-Brewer (2002) 206-207 (as a possibility); Jim McGuiggan, *The Book of 1 Corinthians* (Lubbock, TX: Montex Publishing, 1984) 113-116. It is more likely, however, that v. 27 refers to one who has been freed (or simply is free)<sup>15</sup> from a betrothal rather than a marriage. This is recognized by most modern commentators. E.g., Gordon Fee, *The First Epistle to the Corinthians*, New International Commentary on the New Testament (Grand Rapids: Eerdmans, 1987) 330-332; Richard E. Oster, Jr., *1 Corinthians*, NIV Commentary (Joplin, MO: College Press, 1995) 178; Anthony C. Thiselton, *The First Epistle to the Corinthians*, New International Greek Testament Commentary (Grand Rapids: Eerdmans, 2000) 576-577; David E. Garland, *1 Corinthians*, Baker Exegetical Commentary on the New Testament (Grand Rapids: Baker, 2003) 325-326. Though a betrothal was a binding arrangement, there is a material difference between marriage and betrothal. Thus, one cannot infer permission to remarry after dissolution of a marriage from permission to remarry after dissolution of a betrothal.

Moreover, even if 1 Cor. 7:27-28 approves of remarriage by one whose marriage had been dissolved through divorce, that permission clearly is restricted to valid (scriptural) divorces. This is evident from v. 11 where one who divorced invalidly is forbidden to remarry. So neither interpretation of 7:27-28 says anything about the right to remarry of an innocent spouse who is wrongly (unscripturally) divorced.

The possibility that an innocent spouse who is wrongly divorced is not free to remarry raises the question of whether that prohibition continues even after the divorcing spouse remarries or engages in sexual immorality. Some believe that it does based on the notion that a divorce on invalid grounds leaves the parties married. For example, Cornes writes (1993) 207:

Could an exception be made if her husband had divorced her for any reason other than adultery on her part and then himself remarried? It is hard to see how. If his remarriage in this situation is adultery, that is because the original marriage still exists. If then the woman is still, in God's eyes, married to her (original) husband, her remarriage would also be adultery. It would simply, in God's eyes, be one adultery on top of another.

It seems to me, however, that this involves an overly literal understanding of what the Lord meant by "adultery" in his teaching on divorce and remarriage. I do not believe the marriage itself survives the divorce, as though it were a metaphysical union incapable of human severance. Paul makes clear in 1 Cor. 7:10-11 that divorce, even where

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<sup>15</sup> According to Frederick William Danker, ed., *A Greek-English Lexicon of the New Testament and Other Early Christian Literature*, 3<sup>rd</sup> rev. ed. (Chicago: University of Chicago Press, 2000) 607, "a previous state of being 'bound' need not be assumed."

contrary to the will of God, renders the parties "unmarried." In other words, it effectively severs the marriage bond. Indeed, in Mat.19:6 (and Mk. 10:9) Jesus commands people not to separate a marital union, which suggests that people have the ability to do just that. Why command someone not to do what he or she cannot do in the first place? And in Jn. 4:18 Jesus tells the woman at the well that she was married five times before (had five husbands) but now is just living with a man. As Keener notes (2006) 107: "Jesus does not say to the woman at the well, 'You were married once and have lived with five men since then.' Rather, he says, 'You were married five times but are just living with someone now.'"

What remains after a divorce is not the marriage bond per se but the obligation of exclusive commitment that was part of that bond. Violating that obligation by remarriage or sexual immorality is adultery in a metaphorical sense because it is giving to another what in some sense still belongs to the first spouse. This changes the question from whether adultery by a married person excuses adultery by his/her spouse, which is how Cornes frames it, to whether the violation by an unmarried person of a surviving right of exclusive commitment frees that person's former spouse to remarry.

I find no clear answer in the Bible to that question, but I reason that remarriage is not wrong in that case. Since the only remaining marital obligation after the divorce was the obligation of exclusive commitment and since a violation of that obligation during the course of a marriage, in the form of sexual immorality, can free the other spouse from that obligation (and does so if he/she divorces), it seems likely that a violation after a divorce would have the same effect.

Even John Murray, who viewed divorced parties as still married, believed that remarriage is permitted in the situation under discussion. He writes (1972) 115: "Mr. D. divorces Mrs. D. without adequate cause. Mrs. D. remarries . . . May Mr. D. now remarry? If the question were, may Mrs. D. remarry on the remarriage of Mr. D. the answer would be very simple. On the remarriage of Mr. D., Mrs. D. could secure divorce on a proper ground and then remarry without fault."

## **B. Where the divorcing spouse is not a Christian**

According to Paul, Jesus' teaching on divorce and remarriage during his earthly ministry (i.e., the teaching recorded in the Gospels) covered marriages between two Christians but *not* marriages between a Christian and a non-Christian (1 Cor. 7:10-13).<sup>16</sup> Regarding the latter, Paul says in 1 Cor. 7:15 that if the non-Christian spouse divorces

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<sup>16</sup> As Anthony C. Thiselton states in *The First Epistle to the Corinthians*, New International Greek Testament Commentary (Grand Rapids: Eerdmans, 2000) 525:

The whole of the previous statement about married Christian couples received added point from Paul's citing a tradition concerning **a saying of the Lord** in the context of the previous issue, but on the question of what should be the attitude of a person when one of a married couple comes to faith and the other does not was not a situation addressed in the teachings of Jesus. So Paul now disengages the present pastoral issue from traditions about sayings of Jesus.

then the Christian spouse is not obligated to effect a restoration of the marriage ("let him or her separate"). The brother or sister "has not been enslaved" in such circumstances.

There is a debate over whether not being enslaved includes a right to remarry. Some are convinced that the question of remarriage is beyond the scope of Paul's concern in 7:15. E.g., Fee (1987) 302-303; Jack P. Lewis, *Exegesis of Difficult Passages* (Searcy, AR: Resource Publications, 1988) 125-127. It seems more likely, however, that Paul intended such a right to exist. As Instone-Brewer writes in "1 Corinthians 7 in the Light of the Jewish Greek and Aramaic Marriage and Divorce Papyri," *Tyndale Bulletin* 52 (2001) 241:

When Paul says they are "no longer enslaved," any first century reader would understand him to mean that they can remarry, because they would think of the words in both Jewish and non-Jewish divorce certificates: "You are free to marry." If Paul had meant something else, he would have had to state this very clearly, in order to avoid being misunderstood by everyone who read his epistle.

## **V. Must one whose remarriage was sinful repent by divorcing the second spouse?<sup>17</sup>**

### **A. The nature of the adultery committed upon remarriage**

The critical question is the nature of the adultery that is committed when a Christian remarries sinfully. Is it "literal adultery" or "metaphorical adultery"? Literal adultery occurs when: (a) a married person (b) has sexual relations (c) with one to whom he/she is not married. If Jesus meant that a Christian who remarries after an unscriptural divorce commits literal adultery, then that Christian is (a) still married to the spouse he/she presumed to divorce (b) and is having sexual relations (c) with the woman or man he/she presumed to marry but who is not really his/her spouse. This is a common understanding of the Lord's teaching, but several things make me think Jesus probably was not referring to literal adultery.

First, in Mat. 19:6 (and Mk. 10:9) Jesus commands people not to separate a marital union. This suggests to me that people have the ability to do just that. Why command someone not to do what he or she cannot do in the first place? I suppose one could argue that Jesus actually was saying that a husband or wife should not *try* to separate a marital union, but that qualification is not apparent from the context. It seems to be a straightforward command not to divorce because divorce separates what God has joined together.

That husbands and wives can in fact separate what God has joined together is confirmed by 1 Cor. 7:10-11, where Paul indicates that even a sinful divorce effectively

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<sup>17</sup> The situation under consideration here is where the divorce and sinful remarriage both occurred after the person was a Christian. If I am correct in thinking that Jesus' teaching regulated Christian couples (see 1 Cor. 7:10-13), divorce and remarriage by non-Christians raises additional issues.

separates a marital union rendering the parties "unmarried." He writes: "Now to the married, I command (not I, but the Lord) the wife not to separate from her husband – but if she does indeed separate, let her remain unmarried or be reconciled to the husband – and the husband not to divorce his wife."<sup>18</sup> Marriage apparently is not some kind of metaphysical union that cannot be dissolved contrary to the will of God. Rather, it is a union that husbands and wives can choose to dissolve despite being commanded not to do so.

The second reason I think Jesus probably was not referring to literal adultery is that he does not expressly relate the offense in question to sexual relations. Rather, he describes the "adultery" simply in terms of divorce and remarriage. Of course, sexual relations would be presumed in the case of remarriage, but given that sexual relations are not *essential* for a valid marital union (as Joseph and Mary make clear – Mat. 1:24-25), "remarriage" seems a rather obscure way of referring to sexual relations. If the sin was having sexual relations with a nonspouse, why not say that any man who divorces his wife and "knows" another woman commits adultery?

The third reason I think Jesus probably was not referring to literal adultery is that even sinful marriages appear to result in valid marital unions. The sinful marriages in Ezra 9-10 are a case in point. I address below the significance of the fact the Israelites were required to divorce their foreign wives, but the point for now is that the marriages still were marriages despite having been entered into contrary to the will of God. The women are called "wives" and they apparently were required to be "put away" in accordance with the Law. Solomon's sinful taking of "many wives" is another example.

The fourth reason I think Jesus probably was not referring to literal adultery is that there is precedent for "adultery" being used metaphorically. The term was regularly used in the Old Testament for spiritual idolatry, for giving to foreign gods what rightfully belonged to Yahweh alone (e.g., Jer. 3:8-9). (It also is used metaphorically in Mat. 5:28, but there the metaphorical use is signaled by the phrase "in his heart.")

If Jesus was not referring to literal adultery, then what did he mean in saying that one who sinfully divorces and remarries "commits adultery"? I think Peter Lockery is correct in suggesting that the "adultery" begins with the sinful divorce and is completed *in the act of remarriage*.<sup>19</sup> Upon remarriage, the commitments that were made to the first spouse are wrongfully (but effectively) given to the second spouse. It is "adultery" in the sense the second spouse is given what rightfully belonged to the first spouse.<sup>20</sup> As Lockery puts it, "Serial monogamy is morally equivalent to marital adultery."

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<sup>18</sup> The Greek word χωρίζομαι is used in Greek literature and legal documents as a technical term for divorce, and as noted, it renders the parties "unmarried." The word also refers to dissolution of a marriage in 1 Cor. 7:15.

<sup>19</sup> Peter F. Lockery, *Divorce and Remarriage in the NT and Its Implication for the Church Today* (Th.M. Thesis, Fuller Theological Seminary 1987).

<sup>20</sup> The only exception is where a spouse is sexually unfaithful, in which event he or she forfeits any right to exclusive commitment.



Under this view, the reason for the "adultery" is not that the first marriage remains in existence after a divorce but that the maritally-created right to exclusive commitment remains. Remarriage violates that surviving right by transferring it to the new spouse. Thus, "the adultery does not consist in the act of sleeping with one's second wife, but in the act of actually *taking* a second wife. [It] is a 'one time' act<sup>21</sup> (even though it has lifelong consequences) . . ." (Lockery).

### **B. The repentance required for a sinful remarriage**

Assuming it is correct to view the "adultery" as a metaphorical reference to a sinful remarriage, the next issue is the nature of the repentance required for that sin. Specifically, must one who sinfully remarries manifest one's repentance by divorcing the second spouse? I do not believe that is necessary. In fact, if the second marriage is a valid union, as I believe it is, one actually compounds one's sin by divorcing the second spouse.

Those who insist on divorce in the case of sinful remarriages often argue by analogy from the case of a thief. As a thief is required to prove his repentance by making restitution, they claim that one who sinfully remarries must prove one's repentance by surrendering "the fruit of one's sin." Putting aside the fact the analogy is dubious in that divorce does not constitute restitution, 1 Cor. 7:10-11 indicates that repentance does not always require trying to "undo" one's sin. In those verses, Paul says that if a woman divorces her husband contrary to the Lord's command, "let her remain unmarried or be reconciled to the husband." He does not demand that the sinfully divorcing wife relinquish the fruit of her sin (her unmarried state) as proof of her repentance but gives her the option of remaining *unmarried*.<sup>22</sup> If a sinfully divorcing spouse is not obligated to remarry the divorced spouse as proof of repentance, I am hard pressed to imagine why one who sinfully remarries must destroy his new marital union to demonstrate repentance.

David had Uriah killed in order to take Bathsheba as his wife, so his marriage to her was the fruit of his sin of murder. Yet, David was not required to manifest his repentance by divorcing Bathsheba, by surrendering the benefit of his sin. The fact Bathsheba was a widow at the time of her marriage to David and thus legally free to remarry does not alter the fact David gained her as the result of a sinful act. Indeed, Nathan's rebuke emphasizes David's taking of Uriah's wife to be his own. If one who gains a spouse through sin is required to divorce that spouse as proof of repentance of that sin, why was not David required to do so?

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<sup>21</sup> As Carroll Osburn shows in "The Present Indicative in Matthew 19:9," *Restoration Quarterly* 24 (1981): 193-203, the fact "commits adultery" is a present indicative verb is not inconsistent with the adultery being a one-time act.

<sup>22</sup> As previously stated, though it is possible 1 Cor. 7:10 means one must remain single in order to reconcile, these actions are stated as alternatives.

Solomon's taking of many wives is another case in point. Despite the fact God specifically forbid Israelite kings from taking "many wives" (Deut. 17:17), there is no indication that Solomon was required to dissolve the marriages he entered into contrary to that command.

Ezra 10 does not prove that every forbidden marriage must be split apart. The separation was required in that case not because the marriages were sinful but because the pagan wives would pull the Israelites from God. Separation was necessary to preserve the spiritual life of the nation. This was more important in terms of salvation history than honoring the sinfully-given marital commitments. Paul, on the other hand, makes clear that Christians are not to divorce their non-Christian spouses.

Paul's insistence that Christians not divorce their non-Christian spouses is more significant than often is appreciated. It is apparent to me from 1 Cor. 7:39 that Paul considered it sinful for a Christian to marry a non-Christian. (If a Christian widow must marry a Christian, it seems inescapable that a never-married Christian must marry a Christian.)<sup>23</sup> If that is correct, then Paul's command that Christians not divorce their non-Christian spouses shows clearly that marriages entered into sinfully need not be broken up. One can avoid this conclusion by claiming that Paul's command not to divorce a non-Christian spouse referred only to situations where the couple *already was married* when one of them became a Christian. But if that is the case, then those who claim that all sinful marriages must be dissolved are compelled by logic to demand dissolution of marital unions created by a Christian marrying a non-Christian (sinful mixed marriages).

John's declaration that it was not lawful for Herod to have his brother's wife does not prove that every forbidden marriage must be split apart. John did not say that Herod was required to divorce Herodias. He simply may have been calling Herod to acknowledge his sin. But if he was calling for a divorce, note that Herod's remarriage to Herodias was unusual because of the relationship of the parties. Having sexual relations with the former wife of a living brother was considered incestuous under the Law (Lev. 18:16, 20:21).

There is no evidence that Jesus called for the dissolution of adulterous remarriages. Instone-Brewer remarks (2002) 183:

There is nothing to suggest that Jesus asked anyone to separate from the second husband or wife if one had remarried after an invalid divorce. Technically the marriage was adulterous, but if this was applied literally, then there would be huge confusion and disruption to people's lives and families. This is presumably why the divorce saying found its way into

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<sup>23</sup> Modern commentators who recognize that Paul here limits the widow's marriage pool to Christians include W. Harold Mare (*The Expositor's Bible Commentary*), Gordon D. Fee (*New International Commentary on the New Testament*), Richard E. Oster (*College Press NIV Commentary*), Bruce Winter (*New Bible Commentary 21<sup>st</sup> Century Edition*), Anthony C. Thiselton (*New International Greek Testament Commentary*), and David E. Garland (*Baker Exegetical Commentary on the New Testament*).

[or was included in] the Sermon on the Mount. Just as someone who hates his brother is not to be prosecuted for murder, so one who has remarried is not to be accused in court of committing adultery.

So, in my opinion, those who have sinfully remarried should be accepted into the fellowship upon confession of their sin. I think wisdom dictates that the confession be made publicly to ease concerns the members may have about the couples' submission to Christ. The confession should be along the lines of:

Though the Lord in his mercy has blessed me in my marriage, it was sinful for me to have married X. I chose self over the Lord, and hereby repent publicly of that sin. I am convinced the Lord has forgiven me, and I ask that you receive me into your fellowship as a penitent sinner who is devoted to honoring the Lord Jesus in every aspect of his/her life. I ask for your prayers that I may have the strength to live out that commitment.